

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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RACHEL WITLIEB BERNSTEIN,	:
ANDREA MACKRIS, and REBECCA	:
GOMEZ DIAMOND,	:
	:
Plaintiffs,	:
	:
	:
v.	:
	:
BILL O'REILLY and	:
FOX NEWS NETWORK LLC,	:
	:
Defendants.	:
-----X	

Index No.: cv-17-9483 (DAB)

DECLARATION OF NEIL MULLIN

I, Neil Mullin, hereby declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am an attorney admitted to practice in the State of New York and before this Court, and I am a partner with Smith Mullin, P.C., attorneys for plaintiffs Rachel Witlieb Bernstein, Andrea Mackris and Rebecca Gomez Diamond in the above-captioned case.
2. I submit this Declaration in support of Plaintiffs' Brief in opposition to Defendant O'Reilly's motion to dismiss this action, or, in the alternative, stay the action pending arbitration and in support of Plaintiffs' Brief in opposition to Defendant Fox News Network LLC's motion to dismiss this action, or, in the alternative, stay the action pending arbitration.

3. Attached hereto as **Exhibit A** is a true and accurate copy of the Severance Agreement and General Release entered into between Rachel Witlieb (Bernstein) and Fox News Network L.L.C. in 2002.

4. Attached hereto as **Exhibit B** is a true and accurate copy of the Confidential Settlement Agreement entered into between Andrea Mackris, Benedict P. Morelli, Benedict P. Morelli & Associates P.C., David Ratner, Esq., William O'Reilly and Fox News Network L.L.C. on October 28, 2004.

5. Attached hereto as **Exhibit C** is a true and accurate copy of the Mackris Amendment to Confidential Settlement Agreement dated November 7, 2007.

6. Attached hereto as **Exhibit D** is a true and accurate copy of the Confidential Settlement and Mutual Release Agreement entered into between Rebecca Diamond and Fox News Network, L.L.C. and William O'Reilly dated August 5, 2011.

7. Attached hereto as **Exhibit E** is a true and accurate copy of the proposed Second Amended Complaint filed with this Court in support of plaintiffs' Motion to File a Second Amended Complaint on March 30, 2018, filed at Dkt. Nos. 52 to 52-4, as corrected today with my Supplemental Declaration (filed at Dkt. Nos. 53 to 53-3).

8. Attached hereto as **Exhibit F** is a true and accurate copy of a letter from Fredric S. Newman, Esq. to Andrea Mackris (with enclosure), dated September 12, 2016.

9. Attached hereto as **Exhibit G** is a true and accurate copy of the Slip Opinion in the matter of Zervos v. Trump, Index No. 150522/17.

10. Attached hereto as **Exhibit H** is a true and accurate copy of a transcript of a podcast between Bill O'Reilly and New York Times Reporters Emily Steel and Michael Schmidt.

11. Attached hereto as **Exhibit I** is a true and accurate copy of a transcript of an audio-recorded interview between Bill O'Reilly and Glenn Beck dated October 23, 2017.

12. Attached hereto as **Exhibit J** is a true and accurate copy of a transcript of a videotaped interview between Bill O'Reilly and Matt Lauer dated September 19, 2017.

13. Attached hereto as **Exhibit K** is a true and accurate copy of a transcript of an audio-recorded interview between Bill O'Reilly and Sean Hannity dated September 18, 2017.

14. Attached hereto as **Exhibit L** is a true and accurate copy of a Fox News article entitled "Fox News drops Bill O'Reilly in wake of harassment allegations" by Howard Kurtz published on April 19, 2017. See also, www.foxnews.com/entertainment/2017/04/19/fox-news-drops-bill-o'reilly-in-wake-harassment-allegations.print.html.

15. I declare under penalty of perjury that the foregoing is true and correct.

/s/ Neil Mullin

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Dated: April 3, 2018